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LABOUR & EMPLOYMENT DEPARTMENT

NOTIFICATION

The 31st March 2007

No. 2915-II/1(B)-76/2004-L. E.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Award, dated the 27th January 2004 in I. D. Case No. 32/2005 of the Presiding Officer, Labour Court, Bhubaneswar to whom the industrial disputes between the Management of Orissa State Co-operative Handicrafts Corporation Ltd., Bhubaneswar and its Workman Miss Kustita Nayak was referred for adjudication is hereby published as in the Schedule below :

SCHEDULE

IN THE LABOUR COURT, BHUBANESWAR

INDUSTRIAL DISPUTE CASE No. 32 OF 2005

Dated the 27th January 2007

Present :

Shri S. K. Mohapatra, O.S.J.S. (Jr. Branch),
Presiding Officer, Labour Court,
Bhubaneswar.

Between :

The Management of M/s Orissa State Co-operative Handicrafts Corporation Ltd., Bhubaneswar. . . First Party—Management

And

Their Workman . . . Second Party—Workman
Miss Kustita Nayak

Appearances :

For the First Party—Management . . . None

For the Second Party—Workman herself . . . Miss Kustita Nayak

AWARD

The Government of Orissa, Labour & Employment Department referred the present dispute between the management of M/s Orissa State Co-operative Handicrafts Corporation Ltd., Bhubaneswar and their workman Miss Kustita Nayak under Notification No. 8007-L.E., dated the 18th July 1985 vide Memo No. 6170 (5)-L.E., dated the 22nd July 2005 for adjudication by this Court.

2. The terms of reference by the State Government is as follows :—

"Whether the action of termination of services of Miss Kustita Nayak, Attender by the management of Orissa State Co-operative Handicrafts Corporation Ltd., Bhubaneswar with effect from the 13th August 2002 is legal and/or justified ? If not, to what relief she is entitled ?"

3. Shorn of all unnecessary details, the case of the workman in brief is as follows :

The workman was working at the sales centre of the management and was posted at Bhubaneswar. The workman joined in her post on the 30th August 1994 and she was being paid a consolidated salary of Rs. 750 per month. The management terminated the services of the workman without observing any formalities prescribed under the provisions of the Industrial Dispute Act, 1947 (hereinafter referred to as the I.D. Act). No notice pay was paid to the workman and there was no domestic enquiry of any kind against her and there was never any charge-sheet against the workman. The service of the workman was terminated by way of denial of employment. On these averments, the workman has prayed for reinstatement of her service along with full back wages.

4. The management has been set *ex parte*.

5. The Orissa State Co-operative Handicrafts Corporation Ltd. is engaged in promotion and sales of handicrafts in the State of Orissa and therefore, it is an industry as defined under Section 2 (j) of the I.D. Act. Now it is to be seen from the evidence on record, if the workman was in continuous service as defined under Section 25-B of the I.D. Act. The workman has examined herself as W. W. 1. In her evidence the workman has proved the office order Ext. 1 under which she was appointed and Ext. 2 is the office order, dated the 1st September 1994 which was passed consequent upon her joining at her appointed post. The workman has also proved Ext. 3 series which are the xerox copies of appointment letters which were given to her from time to time. On calculation it is seen that the workman had worked for more than 240 days during a period of 12 calendar months preceding to the date i.e. the 13th August 2002 on which her service was terminated by way of refusal of further employment. Therefore, the workman was in continuous service within the meaning of Section 25-B (2) (a) (ii) of the I.D. Act. Therefore the workman is entitled to the benefits of Section 25-F of the I.D. Act. The conditions precedent to retrenchment of a workman as noted in Section 25-F of the I.D. Act had never been observed by the management when the services of the workman was terminated and therefore, the termination of services of the workman by the management with effect from the 13th August 2002 is illegal and consequently it is ordered.

The termination of services of the workman namely Miss Kustita Nayak by the management namely Orissa State Co-operative Handicrafts Corporation Ltd., Bhubaneswar with effect from the 13th August 2002 is held to be illegal and consequently it is ordered that the workman namely Kustita Nayak be reinstated in her service forthwith with full back wages.

The reference is thus answered accordingly *ex parte*.

Dictated and corrected by me.

S. K. MOHAPATRA
27-1-2007
Presiding Officer
Labour Court, Bhubaneswar

S. K. MOHAPATRA
27-1-2007
Presiding Officer
Labour Court, Bhubaneswar

By order of the Governor
N. C. RAY
Under-Secretary to Government